

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES DEPARTMENT OF
JUSTICE, EXECUTIVE OFFICE FOR
IMMIGRATION REVIEW,

No. C-08-5265 SBA

Petitioner,

ORDER TO SHOW CAUSE

v.

NI CHI NGUYEN, *et al.*,

Respondents.

Petitioner has filed a petition, asking that subpoenas issued by U.S. Immigration Judge Polly Webber and served on Respondents Ni Chi Nguyen and Chung Van Do be enforced. In a memorandum accompanying its petition, Petitioner asks that the Court issue an order to show cause why the immigration judge's subpoena should not be enforced -- *i.e.*, why they should not be compelled to appear and testify at the removal proceedings of Luu Thi Pham, in the United States Immigration Court in San Francisco, California, on January 29, 2009, at 1:00 p.m.

Petitioner has made an adequate showing that Mr. Nguyen and Mr. Do may have relevant information with respect to the removal proceedings (Mr. Nguyen being married to Ms. Pham and Mr. Do having allegedly lived with Mr. Nguyen and Ms. Pham). *See* Olsen Decl., Ex. A at 2 (immigration judge's findings). Furthermore, Petitioner has sufficiently established that an order to show cause is appropriate in light of the failure of Mr. Nguyen and Mr. Do to appear as witnesses at hearings scheduled by the immigration judge. *See* 8 C.F.R. § 1003.35(6) (providing that, "[i]f a witness neglects or refuses to appear and testify as directed by the subpoena served upon him or her

1 in accordance with the provisions of this section, the Immigration Judge issuing the subpoena shall
2 request the United States Attorney for the district in which the subpoena was issued to report such
3 neglect or refusal to the United States District Court and to request such court to issue an order
4 requiring the witness to appear and testify and to produce the books, papers or documents designated
5 in the subpoena"); *id.* § 1287.4 (noting the same).

6 Accordingly, the Court hereby GRANTS Petitioner's request for an order to show cause.
7 The Court HEREBY ORDERS each Respondent to appear in Courtroom 3 of the United States
8 Courthouse, 1301 Clay Street, Oakland, California, on **January 27, 2009, 1:00p.m.**, to show cause
9 why they should not be compelled to appear and testify at the removal proceedings of Luu Thi
10 Pham, in the United States Immigration Court in San Francisco, California, on January 29, 2009, at
11 1:00 p.m. Respondents must file a response to this order by January 20, 2009. All parties --
12 including Respondents -- shall appear before the Court for the hearing on this matter.

13 Petitioner is also ORDERED to serve a copy of this order to show cause, along with the
14 petition, supporting memorandum, and supporting declaration on each Respondent no later than
15 January 9, 2009. Service shall comply with Federal Rule of Civil Procedure 4. Immediately upon
16 service, Petitioner shall file with this Court a proof of service as to each Respondent.

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18 IT IS SO ORDERED.

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20 Dated: 1/6/09



United States District Judge